

SHAPING INSURANCE REPORT.

DIFFERING OPINIONS EXPECTED TO BE RECONCILED.

Armstrong Committee to Get to Work Tomorrow on the Final Revision to Be Presented to the Legislature Feb. 12—There'll Be 75,000 Words of It.

If nothing interferes with the plans of the Armstrong investigating committee, its report will be presented to the Legislature on Monday, February 12. The report will consist of 75,000 words. The committee, when the public inquiry ended on December 30, had the reforms which they desired to make pretty well in mind, and the work of drafting the report was left chiefly to Charles E. Hughes, the committee's leading counsel, and Senator W. H. Armstrong, the chairman.

The tentative draft of the report is about ready now. It will be brought before the entire committee to-morrow. Each recommendation in the report will be taken up separately and discussed. Although the committee is said to be a unit on the general reforms that ought to be instituted, several of the members, it is said, have decided opinions of their own as to the requests that ought to be applied. Some of these opinions differ, and it is expected that a good many suggestions and revisions of the original text will be made before the report assumes its final form.

There were reports last night to the effect that the Democratic members of the committee, Senator Rindland and ex-Assemblyman McKown, might bring in a minority report. Mr. McKown, however, denied this. He said that he had talked with nobody about such a matter and the thought had not entered his head. He believed that the committee was pretty thoroughly in accord on the recommendations that ought to be made, that the report would be drafted and that it would bear the signatures of all the members.

Of course, if things were omitted from the report which he believed ought to be incorporated in it, he would not hesitate to express his opinion formally. Beginning with the meeting of the committee to-morrow, the investigators will continue to hold sessions every day in this city until the document is ready to be sent to Albany.

Every possible precaution has been taken by the committee to prevent a leak, and extraordinary plans have been made for the next two weeks. The report will be sent to the State Printer like the ordinary reports of Legislative committees. The committee won't even have it printed until after it has been made public.

Only five typewritten copies of the report will be made. One will be sent to the Assembly, one to the Senate, and the remaining three will be turned over to the press associations. One of the committee members yesterday said that the report would include not more than twelve fundamental recommendations, each of which would be embodied in a bill to be introduced in the Legislature.

Senator Armstrong will leave town to-day for Albany, where he will try to push along the bill that has been introduced in both houses relative to the printing of the testimony taken before the committee. The bill has been advanced to a third reading. It authorizes the Armstrong committee to procure printed volumes of the testimony.

The State Printer, against whom the bill is directed, has promised to be good and turn over the printed testimony as fast as possible, regardless of his own personal plans to sell it at \$15 a volume, but the investigators don't intend to take any chances.

The State Insurance Commissioners and others who have arranged for the big life insurance conference in Chicago on February 1 are excited over the circumstance that the Armstrong committee recommendations will not be made public in time for the conference. The intention of the commissioners was to make the report of the New York State investigators the basis of action by the conference.

Elaborate plans have been made for the meeting, which in many respects will be the most notable insurance gathering of its kind ever held. Besides the commissioner from each State in the Union the Governor and the Attorney-General also have been invited. Attorney-General Mayer has announced that he will make public at the conference his plans for bringing suits against the New York Life and Mutual trustees to compel an accounting and restitution. Senator Armstrong has notified the persons in charge of the conference that it will be impossible for the committee to make the report public and has suggested that the meeting be adjourned until after the report is in.

One member of the investigating committee said yesterday that he would probably have introduced in the Legislature a bill for a further appropriation for the committee. The State's original appropriation was \$50,000, and almost that amount, it was said, had been expended in counsel fees and payments to stenographers. This member thought that it might require as much again to clear up the committee's expenses.

POLICY HOLDERS RIGHT TO SEE. Decision in Young Case Far-reaching—May Entail Mutual Suits.

The decision of Justice Kellogg's decision in the Supreme Court overruling James Azen Hyde's demurrer to the suit brought by Mary S. Young against him and the other old Equitable directors to compel an accounting and restitution reached his city yesterday. The decision was handed down in Saratoga county a few days ago.

The decision embraces an important ruling affecting section 56 of the insurance law. This is the section which provides that no order, judgment or decree providing for an accounting or the restraining of a domestic insurance company's business or the appointing of a receiver shall be granted except with the approval of the Attorney-General. An action by a judgment creditor is made an exception.

Section 56 has been regarded as virtually conferring upon the Attorney-General the power of saying whether or not a suit shall be brought by a policyholder against an insurance company. One of the points raised by James H. Hyde's counsel in the demurrer was that Mary S. Young, the plaintiff, had no legal capacity to maintain her suit. That is, Section 56 was construed as applying also to an action brought by a policyholder against the directors and officers of a life company. Justice Kellogg's decision is to the effect that the law does not shield the life insurance trustees and directors from action direct by a policyholder. He says:

To say of thinking the statute in question in no wise prohibits the bringing of this action and this complaint is not deniable because of it.

The nature of a policyholder's interest in a mutual company is very similar to that of an ordinary stockholder. He elects the directors of the corporation, he is entitled to a share in the profits of the corporation, and he is entitled to a share in the assets of the corporation upon the proper management thereof depends his ultimate profit. Since he names the managers he surely has an

interest in the corporate funds and a right to compel proper management and the collection of assets diverted improperly by an ordinary stockholder has that right.

Here is only a legal question. The plaintiff's corporation has a cause of action which it does not enforce. The plaintiff is entitled to its enforcement. The fact that the corporation's business is insurance, not manufacturing, is no valid distinction differentiating the plaintiff's case from that of an ordinary stockholder.

The decision of Justice Kellogg will be of special interest to the trustees of the Mutual Life. They will hold a meeting to-morrow, when the recommendations of the Trustees' investigating committee will be considered. These recommendations are that the company itself should bring suits against certain of the individual directors to recover moneys which were paid out without legal warrant.

It has been said that an opinion of Joseph H. Choate, counsel in by the Mutual's lawyers, will be presented, to the effect that some of the recommendations of the Trustees' committee cannot be carried out because the payments have been approved by the board of trustees. The increase in Richard A. McCurdy's salary from \$100,000 to \$150,000 is one instance. Mr. Choate and other lawyers, it is said, hold that although the increase was not authorized in law the act of the board of trustees in cutting it shortly before Mr. McCurdy retired from \$150,000 to \$75,000 in itself constituted a ratification of the increase.

A letter written by Susan Corey of Plainfield, N. J., to Representative Matthews of Indiana relative to insurance matters, was made public yesterday. The writer includes in the letter a communication which she sent to Senator Armstrong, chairman of the New York State investigating committee. She believes that the foreign business done by the big insurance companies is a great source of evil. She declares that the Mutual Life trustees reported in 1905 that the company's expenses were \$1,000,000 in principle and applied in every way to the interests of American policyholders. The Plainfield writer accuses the Mutual trustees of not having lived up to their original report although the reasons why they should, she declares, just as strong now as they were in 1905.

The Plainfield policyholder says that the foreign business of the American companies is a source of loss to the American policyholders. She says that she is judging of the books and accounts; that the companies have been obliged to account for their actions many times in foreign courts of justice; that the Procureur-General of the Paris court accused the Mutual Life of publishing "false allegations, falsifying figures, making whimsical calculations, and playing with the facts shown by the balance sheets."

She wants laws passed to limit or prevent foreign business.

PERMANENT HAGUE TRIBUNAL.

House Adopts Resolution of Instruction to Our Delegates.

WASHINGTON, Jan. 29.—Mr. Bartholdt (Rep., Mo.), president of the International Parliamentary Union, organized to promote the advance of arbitration as a means of settling disputes between nations, today introduced a joint resolution into the House of Representatives directing the President to instruct the delegates of the United States to the second Hague conference to favor the object recommended by the resolutions adopted at the meeting of the parliamentary union at St. Louis in connection with the Louisiana Purchase Exposition.

First—The negotiation of arbitration treaties between the nations represented at the conference to be convened.

Second—The object of the establishment of an international congress to convene periodically for the discussion of international questions.

Third—The adoption of the adoption of these purposes "to the end that arbitration treaties conferring jurisdiction on the high court at The Hague in all controversies between nations may be established."

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GENERAL WHEELER'S FUNERAL.

PRESIDENT AND MRS. ROOSEVELT AMONG THE MOURNERS.

All the Honors Due to a Major-General Paid the Dead Soldier—Veterans of the Union and Confederate Armies Conspicuous at the Church Services.

WASHINGTON, Jan. 29.—Major-General Wheeler, U. S. A., retired, was buried here to-day. The attending ceremonies were most impressive, both at St. John's Episcopal Church, where there were brief services, attended by the President and Mrs. Roosevelt, who sat in the front pew of the church throughout the services, and at Arlington, where the burial took place. Mrs. Roosevelt, who was dressed in black with a heavy veil, was followed in her hearse and an obsequious hearse. The President wore a black frock suit, his tie was black and his hands were covered by black gloves.

The funeral was distinctly military and with all the honors due a Major-General. Not only were there present hundreds of soldiers in active service but hundreds of veterans as well. The blue and the gray were mingled together. On the right of the church there were many gray uniforms, and from the center of this little gathering rose the Confederate flag draped with black. In the center of the church, on the first floor, filling every seat, were old soldiers, some who were warriors of the '60s and others who had participated in the Spanish war. Toward the front there was a number of officers of the army, including Major-General Chaffee, Chief of Staff, and Lieut.-Gen. Adna R. Chaffee, who is to retire on February 1. Gen. Chaffee was not in uniform as were many of the other officers. There were half a dozen Major-Generals, active and retired, and, and a number of Brigadiers. Two or three members of the Cabinet attended the funeral, and a number of Senators and Representatives paid homage to the memory of the hero of two wars.

Gray hairs predominated throughout the assembled congregation. Here and there were women, members of the Daughters of the Confederacy and other similar organizations. There were but few young people, and for the most part those present were soldiers who had served with Gen. Wheeler or who had known him during his lifetime. Camp A. Wheeler's Confederate Cavalry of Atlanta, Ga., was represented by a score and a half of veterans. Many of them were in uniform, with the sabres and accoutrements worn during the days of the rebellion. They sat together on one of the pews of the church. One or two carried tiny Confederate flags.

The chancel of the church was profusely decorated with flowers. The casket, which during the day had been passed by hundreds, who took their last opportunity to pay tribute to Gen. Wheeler, was draped with the stars and stripes of the victorious Union. On top of the flags were many flowers. A large wreath of white and pink roses from the White House had its place on the casket. Shortly before 2 o'clock the casket was closed and Gen. Wheeler's body was lowered into the grave. The doors of the church were opened to the public shortly after 1 o'clock this morning. The casket had been guarded by a detail of Spanish War Veterans since its arrival last night from New York. At that hour the guard which had kept during the night was relieved by men from the engineers of the Regular army, the latter remaining during the rest of the day. Throughout the day a large number of soldiers stood at either end of the casket, motionless, with carbine grounded.

From 1 o'clock on crowds gathered around St. John's church for the funeral. The casket was guarded by a detail of Spanish War Veterans since its arrival last night from New York. At that hour the guard which had kept during the night was relieved by men from the engineers of the Regular army, the latter remaining during the rest of the day. Throughout the day a large number of soldiers stood at either end of the casket, motionless, with carbine grounded.

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"MEN, NOT TREES, MAKE STATES."

Senator Heyburn Attacks the President's Policy of Forest Reservation.

WASHINGTON, Jan. 29.—Senator Heyburn of Idaho made a speech in the Senate this afternoon attacking the President's policy of forest reservation. He showed by maps and figures that 15,343,880 acres of land had been withdrawn in the State of Idaho by presidential proclamation for forestry purposes, a greater area than Scotland and representing 28.4 per cent. of the entire area of the State.

"It is men who make States, not trees," exclaimed the Idaho Senator.

Mr. Heyburn said that Idaho came into the Union under circumstances different from other States. Idaho did not come into the Union under an existing act. Her grant of land took effect at once. It was not an inchoate title. Therefore the President had exceeded his authority in withdrawing the land under an interpretation of law he thought belonged to the public lands, but which really belonged to the State of Idaho, the title having passed at the time Idaho was admitted into the Union.

Mr. Heyburn held the floor for nearly two hours in his attack on the President's policy of forest reservation. He showed by maps and figures that 15,343,880 acres of land had been withdrawn in the State of Idaho by presidential proclamation for forestry purposes, a greater area than Scotland and representing 28.4 per cent. of the entire area of the State.

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TO CREATE AN ARMY RESERVE.

A FORCE NOT TO EXCEED 50,000 MEN IS PROPOSED.

Several Bills Prepared by the General Staff Are Sent to Congress by Secretary Taft—One Provides for the Separation of Coast and Field Artillery.

WASHINGTON, Jan. 29.—Secretary of War Taft to-day sent to Congress eleven bills prepared by the General Staff of the Army for increasing the efficiency of the army. Some of the measures are regarded as highly important. They were prepared after a series of consultations with the heads of the Committee on Military Affairs in both the Senate and the House.

One of the most important of the bills is entitled "A bill to reorganize and increase the efficiency of the artillery of the United States." This measure provides for the separation of the coast and field artillery and for an increase in the coast artillery of 181 officers and 4,923 enlisted men over the present authorized strength. The bill provides also for the organization of the field artillery into six regiments of six batteries each, with an increase over the present authorized numbers of 115 officers and 1,310 men.

Perhaps the most important measure is one which authorizes the organization of a force not to exceed 50,000 men who have served at least two complete enlistments in the regular army. They must be citizens of the United States and under forty. The bill provides for their enlistment for a period of five years, to be paid according to former service as non-commissioned officers or qualification in marksmanship. The highest pay is to be \$32 per annum, the next \$28 per annum and the next \$24 per annum.

These men would be enlisted and carried on the rolls of the military secretary's office, to be allowed to live where they pleased in the United States and to be subject to the call of the President for ten days in one year or fifteen days in two years for purposes of instruction, or in case of war or other national emergency to be mobilized and sent to regular organizations. The object of the measure is to enable the President to mobilize promptly the regular established and regular reserve of the army under the present law, which has been found impracticable to do in a reasonable time by depending on the enlistment of raw recruits, as would be the case.

Another of the bills provides for an equitable and regular flow of promotion by the elimination from the field grades in cavalry, artillery and infantry of the least qualified officers, the eliminating to be done by a board of officers. One of the measures provides for the filling of vacancies caused by the death of officers of the army below the grade of Brigadier-General to the General Staff of the Military Academy, to recruiting duty and to the Bureau of Insular Affairs.

A bill to organize a Service Corps in the United States Army is the title of a measure which provides for an enlisted force to be permanently attached to the quartermaster's subsistence department, not to exceed 6,000 for the quartermaster's and 1,000 for the subsistence. The new corps would displace the civilians and the enlisted men of the regular branch of the service corps have already been used in special duty away from their companies.

Another bill provides for the increase in the monthly pay of non-commissioned officers as follows: First sergeants, \$31; sergeants, \$24 and corporals, \$18. There are also bills for the increase of the efficiency of the veterinary service of the army and of army bands. The bill concerning veterinarians provides that they shall pass examinations and that after ten years service they shall have pay and allowances equal to those of the army and navy. The bill provides for the increase of the enlisted strength of bands from twenty-eight to thirty-six.

The House Committee on the Militia to-day issued a favorable report on the bill to appropriate \$2,000,000 for the militia of the several States for the ensuing year. The appropriation last year was \$1,900,000.

PRESIDENT'S NOMINATIONS.

Judges, Attorneys, Marshals and Postmasters Named—Army and Navy Promotions.

WASHINGTON, Jan. 29.—The President to-day sent to the Senate the following nominations:

To be Third Judge of the Circuit Court, First Circuit, Territory of Hawaii—William J. Robinson.

To be United States Attorneys—William H. Atwell, Northern district of Texas; Charles A. Boynton, Western district of Texas.

To be United States Marshals—Eugene Nott, Western district of Texas; William M. Brown, Southern district of Texas; Grosvenor A. Porter, Southern district Indian Territory.

To be Registers of Land Offices—J. C. Herman Engel, at Salt Lake, Minn.; Charles D. Ford, at Denver, Col.

To be Surveyor-General of California—William S. Graham.

To be Collector of Customs for the district of San Diego, Cal.—Frank J. Barnes.

To be Assessor in Charge United States Assay office, Seattle, Wash.—Calvin E. Vilas.

To be Consul—Albert R. Moravcs of Arizona, at Bahia, Brazil.

War Capt. Harlan H. McKinstry to be Major. Lieut. Thomas H. Jackson to be Captain. Second Lieut. William D. A. Anderson to be First Lieutenant, all of the Corps of Engineers. Second Lieut. Edward